IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

MONDAY, THE 9TH JULY 2007 / 18TH ASHADHA 1929

OP.No. 18657 of 2002(U)

PETITIONER:

K.R.KRISHNANKUTTY,THANNIKKATTU,
S.H.MOUNT P.O., KOTTAYAM.

BY ADV. SRI.K.GOPALAKRISHNA KURUP

RESPONDENTS:

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1. **KERALA STATE ROAD TRANSPORT CORPORATION, REPRESENTED BY IT'S MANAING DIRECTOR,TRANSPORT BHAVAN, THIRUVANANTHAPURAM.**

2. **THE CHIEF LAW AND VIGILANCE OFFICER, KERALA STATE ROAD TRANSPORT CORPORATION, TRANSPORT BHAVAN, THIRUVANANTHAPURAM.**

3. **THE KERALA STATE ROAD TRANSPORT CORPORATION,APPELLLATE TRIBUNAL.**

BY ADV. SRI.P.PARAMESWARAN NAIR, SC, KSRTC for Respondents

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 09/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON C.M.P.NO.31757/2002 IN O.P.NO.18657/2002 U

DISMISSED

9/07/2007 **SD/- THOTTATHIL B.RADHAKRISHNAN,**
J U D G E.

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: **COPY OF THE MEMO OF CHARGES NO.VLC-3-15199/90 DTD. 4/04/1990.**

EXT.P2: **COPY OF THE REPLY DTD. 12/04/1990 SUBMITTED BY THE PETITIONER TO EXT.P1.**

EXT.P3: **COPY OF THE ORDER DTD. 29/11/1990 IMPOSING PUNISHMENT ON THE PETITIONER.**

EXT.P4: **COPY OF THE MEMO OF CHARGES DTD. 2/05/1991.**

EXT.P5: **COPY OF THE REPORT OF ENQUIRY CONDUCTED PURSUANT TO EXT.P1.**

EXT.P6: **COPY OF THE ORDER DTD. 11/01/1993 IMPOSING PUNISHMENT ON THE PETITIONER.**

EXT.P7: **COPY OF THE MEMO OF CHARGES DTD. 3/03/1992.**

EXT.P8: **COPY OF THE REPORT OF ENQUIRY CONDUCTED PURSUANT TO EXT.P7.**

EXT.P9: **COPY OF THE ORDER DTD. 13/09/1993 IMPOSING PUNISHMENT ON THE PETITIONER.**

EXT.P10; **COPY OF THE ORDER DTD. 18/10/1994 PASSED BY THE APPELLATE AUTHORITY.**

EXT.P11: **COPY OF THE JUDGMENT DTD. 24/07/2001 OF THIS HON'BLE COURT IN O.P.NO.6377/95.**

EXT.P12: **COPY OF THE ORDER DTD. 29/12/2001 PASSED BY THE KSRTC APPELLATE TRIBUNAL IN THE REVISION PETITION FILED BY THE PETITIONER.**

/TRUE COPY/

KSS

Thottathil B. Radhakrishnan, J.

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O.P.No.18657 of 2002

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Dated this the 9th day of July, 2007.

JUDGMENT

Ext.P8 is the report of the enquiry into certain allegations of misconduct. He was found guilty on some of the counts. He filed appeal against two orders and reached the Appellate Tribunal by filing three revisions and ultimately, this Court, leading to Ext.P11 judgment.

2. In Ext.P12, the Appellate Tribunal deals with three revisions.

3. R.P.No.29 of 2001 and R.P.No.30 of 2001 relate to misappropriation of small amounts, which are termed as intentional theft and misappropriation by alleging false claims as to expenditure. However small the amount of misappropriation may be, it is essentially a matter that would invite action for indiscipline. But, in cases where materials would be available in the form of documents, there is no reason

why such evidence should be insisted on. As is apparent from Ext.P12 in R.P.No.29 of 2001 and R.P.No.30 of 2001, the Appellate Tribunal found categorically that it was a case of no evidence, in the sense that, even going by the enquiry report, the materials in support of the allegations were not forthcoming. Having held so, the Appellate Tribunal confined itself to reducing the penalty rather than vacating the punishment. This is illegal because the jurisdictional foundation to impose punishment is a finding of guilt based on materials. Having found that the findings of the enquiry officer as regards the counts to which R.P.No.29 of 2001 and R.P.No.30 of 2001 relate, are without any basis, the Appellate Tribunal ought to have vacated the orders against the petitioner, in so far as R.P.No.29 of 2001 and R.P.No.30 of 2001 are concerned.

4. Reverting to R.P.No.31 of 2001, which contains the accusation that the petitioner, in an intoxicated mood, manhandled the Depot Engineer and misbehaved to him, there was clear material in the form of testimony

of the Depot Engineer against whom the petitioner has not proved any case of malice or mala fides. On the basis of the testimony of the Depot Engineer, the findings of the enquiry officer are well-founded. If that be so, the punishment imposed and consequential confirmation of it, though by reducing the same, as per Ext.P12, cannot be found fault with.

In the result, this writ petition is partly allowed vacating the punishments imposed on the petitioner leading to R.P.No.29 of 2001 and R.P.No.30 of 2001 and affirming the findings and punishments as regards R.P.No.31 of 2001. Whether any monetary benefits are due on account of the modulation of the punishments as aforesaid shall be decided by the Managing Director of the first respondent and if found due, that would be quantified and released to the petitioner, within a period of four months from the date of receipt of a copy of this judgment. No costs.

Thottathil B.Radhakrishnan,
sl. **Judge.**

Thottathil B. Radhakrishnan, J.

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O.P.No.18657 of 2002

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JUDGMENT

Dated:9-7-2007